S.B. CIVIL MISC. APPEAL NO.1752/2007.
Sukhi Devi & Ors. Vs. Sona Ram & Ors.

Date of Order :: 23rd July 2007.

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. Bharat Shrimali, for the appellants.

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For quantification of compensation to be awarded to the wife and four minor children of the vehicular accident victim Devaram Chouhan, about 35 years in age, the Tribunal has noticed the assertion of the claimants that the deceased was a skilled artisan of temple articles and was earning about Rs.9,000/- per month; but for want of any cogent corroborative evidence, has put an estimate on his income at Rs.3,000/- per month; and after deduction of one-third wherefrom towards personal expenditure of the deceased, has taken loss of contribution at Rs.2,000/- per month, i.e. Rs.24,000/- per annum; and with application of multiplier of 17, has assessed pecuniary loss at Rs.4,08,000/-. The Tribunal has further allowed Rs. 10,000/- towards funeral expenses and Rs.30,000/- towards loss of consortium and loss of love and affection. With reference to the claim towards the damage caused to the motorcycle of the deceased, the Tribunal has further allowed a sum of Rs.8,000/- and in this manner has made the award in the sum of Rs.4,56,000/- and has allowed interest @ 7.5% per annum. The claimants seek enhancement by way of this appeal.

Learned counsel for the claimants has strenuously contended that the Tribunal has been in error in putting an estimate on the monthly income of the deceased only at Rs.3,000/-; that though no certificate or other evidence on the earnings of the deceased was produced but it was shown in evidence that he had a business establishment in the name of Jai Sundha Mata Marble and from the visiting card of the deceased as well as the photographs of the shop, it could be estimated that he was earning minimum Rs.9,000/- per month as asserted by the claimants.

The submissions are absolutely bereft of substance. The nature of evidence as suggested by the learned counsel for the appellants cannot be indicative of the income of the deceased at Rs.9,000/- per month even on conjectures what to say of logical inference. For the nature and quantum of earnings of the deceased as alleged by the claimants, relevant evidence like the accounts was definitely requisite. In the absence of any reliable evidence, the estimate put by the Tribunal cannot be said to be inadequate. Moreover, the Tribunal has assessed pecuniary loss at Rs.4,08,000/- with application of multiplier of 17 and has further liberally allowed the amount towards general damages and has yet further allowed interest @ 7.5% per annum.

In the ultimate analysis, the award made by the Tribunal

cannot be said to be too low or grossly inadequate and rules out any scope for enhancement.

The appeal fails and is, therefore, dismissed summarily.

(DINESH MAHESHWARI), J.